

IT 96-32  
Tax Type: INCOME TAX  
Issue: Federal Change (Individual)

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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THE DEPARTMENT OF REVENUE	)	
OF THE STATE OF ILLINOIS	)	Docket #
	)	SS #
v.	)	Track #
	)	Barbara S. Rowe
TAXPAYERS	)	Administrative Law Judge
Taxpayer	)	

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RECOMMENDATION FOR DISPOSITION

SYNOPSIS:

THIS MATTER COMES FOR DISPOSITION FOLLOWING THE TIMELY PROTEST BY TAXPAYER (THE "TAXPAYER") TO THE ISSUANCE OF A NOTICE OF DEFICIENCY (THE "NOTICE") BY THE ILLINOIS DEPARTMENT OF REVENUE (THE "DEPARTMENT") FOR THE TAXABLE YEAR ENDING DECEMBER 31, 1991. AT ISSUE IS WHETHER THE TAXPAYER IS LIABLE TO ILLINOIS FOR ADDITIONAL STATE INCOME TAX DUE TO A FINALIZED CHANGE INCREASING THE AMOUNT OF THE TAXPAYER'S ADJUSTED GROSS INCOME. THE TAXPAYER DID NOT REQUEST A HEARING NOR DID HE SUBMIT AN AMENDED ILLINOIS INCOME TAX FORM AS REQUIRED BY STATUTE. IT IS RECOMMENDED THAT THE MATTER BE RESOLVED IN FAVOR OF THE DEPARTMENT.

FINDINGS OF FACT:

1. PURSUANT TO ITS GRANT OF AUTHORITY UNDER THE PROVISIONS OF STATUTE, 35 ILCS 5/904(C), THE DEPARTMENT ISSUED A NOTICE OF DEFICIENCY ON SEPTEMBER 15, 1995 AND SERVED SUCH NOTICE ON THE ABOVE NAMED TAXPAYER.

2. THE LIABILITY ESTABLISHED IS FOR ADDITIONAL INCOME TAX IN THE AMOUNT OF \$188.00 PLUS PENALTIES AND INTEREST FOR THE TAXABLE YEAR ENDING DECEMBER 31, 1991.

3. THE NOTICE WAS ISSUED PURSUANT TO DEPARTMENTAL NOTIFICATION BY THE FEDERAL GOVERNMENT OF AN INCREASE OF \$6,305.00 IN THE TAXPAYER'S ADJUSTED GROSS INCOME.

4. THE TAXPAYER TIMELY PROTESTED THE NOTICE BUT DID NOT REQUEST A HEARING. IN THE PROTEST THE TAXPAYER STATED:

...I HAVE MET WITH MY C.P.A., XXXXX, OF MASTER TAX IN CHICAGO-XXXXX. WE ARE PETITIONING THE IRS TO CHANGE MY FEDERAL TAX FOR 1991. MY EMPLOYER CHARGED ME FOR HEALTH INSURANCE AND LISTED MY CONTRIBUTION AS INCOME. I HAVE JUST RECEIVED CONFIRMATION FROM MY EMPLOYER TO USE IN THIS DISPUTE (SEPT. 22). I WILL FILE AN AMENDED [SIC] RETURN AND SHOULD NOT OWE ANY MONIES TO THE IRS OR YOU.  
ENCLOSED IS A CHECK IN THE AMOUNT OF 25.00 TO SHOW "GOOD FAITH". THIS IS NOT AN ADMISSION OF OWING ANY MONIES TO YOU.  
THIS SITUATION SHOULD BE RESOLVED IN 30 DAYS AT WHICH TIME, YOU MAY REFUND ANY AMOUNT WHICH I MAY BE OWED.

5. TO DATE, AN AMENDED RETURN HAS NOT BEEN RECEIVED BY THE DEPARTMENT, NOR HAS THERE BEEN ANY ADDITIONAL CORRESPONDENCE VERIFYING THE TAXPAYER'S ALLEGATIONS.

CONCLUSIONS OF LAW:

THIS MATTER CONCERNS WHETHER THE TAXPAYER IS OBLIGATED TO THE STATE OF ILLINOIS FOR AN ADDITIONAL INCOME TAX LIABILITY FOR THE 1991 TAXABLE YEAR. THE STARTING POINT FOR A PERSONAL ILLINOIS INCOME TAX

LIABILITY QUESTION IS THE ADJUSTED GROSS INCOME AS SHOWN ON THE TAXPAYER'S FEDERAL INCOME TAX RETURN. 35 ILCS 5/203(E)(1); BODINE ELECTRIC CO. V. ALLPHIN, 81 Ill.2d 502, 506 (1980); THORPE V. MAHIN, 43 Ill.2d 36, 38 (1969).

The Department was notified by the Internal Revenue Service that there had been a change in the taxpayer's adjusted gross income. Once there has been an amendment of a taxpayer's adjusted gross income at the federal level, the taxpayer is required by Illinois statute to report that change within 120 days to the Department pursuant to 35 ILCS 5/506(b). The taxpayer did not notify the Department of the federal change.

The Department issued a Notice of Deficiency based upon the federal notification. The notice is **PRIMA FACIE** correct (35 ILCS 5/904(a)) and the burden is on the taxpayer to rebut this finding. BALLA V. DEPARTMENT OF REVENUE, 96 Ill.App.3d 293, 295 (1981).

The taxpayer in the protest alleged that the federal change was not finalized but offered no proof of that assertion. To date, there has been no submission by the taxpayer to show a further revision of the amount of adjusted gross income as established by the Notice of Deficiency. The taxpayer has not met his burden of proof to rebut the notice.

I recommend that the Director of the Department uphold the Notice of Deficiency as issued.

Respectfully Submitted,

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Barbara S. Rowe  
Administrative Law Judge  
May 7, 1996